IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION

No. 4:12-CR-00032-F-2
No. 4:16-CV-00122-F

LENARD CORNELIUS SMITH ,)

Petitioner,)

v.) ORDER

UNITED STATES OF AMERICA,)

Respondent.)

This matter is before the court on Lenard Cornelius Smith's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-153]. Having examined Smith's motion pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing Section 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 motion within **forty (40)** days of the filing of this order.

Smith asserts a challenge based on *Johnson v. United States*, 135 S. Ct. 2551 (2015), but when he was previously before this court he had retained counsel. Even so, Sherri R. Alspaugh with the Office of the Federal Public Defender entered an appearance pursuant to Standing Order No. 15-SO-2 (E.D.N.C. Oct. 16, 2015).¹

SO ORDERED.

¹ Standing Order 15-SO-2 provides that the Federal Public Defender's Office is appointed to represent "any defendant serving a federal sentence, who was previously determined to be entitled to appointment of counsel or who was previously represented by the Federal Public Defender's Office."

This $\underline{\mathcal{L}'}$ day of June, 2016.

IAMPS C. FOX

SENIOR UNITED STATES DISTRICT JUDGE